IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

Crl.MC.No. 3335 of 2007()
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SC.281/2006 of ADDL.SESSIONS COURT (ADHOC)III, MANJERI
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PETITIONER: 4TH ACCUSED:
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NISSAR, S/O.SAITHALAVI, EDAYOOR AMSOM,
ATHIPPATTA, MALAPPURAM DISTRICT.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS: COMPLAINANT:
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THE STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE VENGARA,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

**Crl.M.C. No. 3335 OF 2007**

**Dated this the 26th day of November, 2007**

**O R D E R**

The petitioner was enlarged on bail as per order dated 4.1.06 passed by this court in BA.7763/05. He faces allegations for the offences punishable under section 376(g) IPC. Bail was granted subject to conditions. One of the conditions imposed was that the petitioner must surrender his passport. Accordingly, petitioner's passport has been surrendered before the learned Magistrate. According to the petitioner, he now wants to leave for Jeddah in connection with his employment. For that, he needs his passport back. The petitioner applied for release of the passport but the learned Magistrate rejected the prayer for release of the passport. The petitioner, in these circumstances, prays that the said decision may be set aside and the passport may be directed to be released to him subject to appropriate terms and conditions.

2. The learned Public Prosecutor submits that after further investigation, fresh report has been filed before the learned Magistrate. The learned Public Prosecutor submits that subject to

conditions which shall ensure that the petitioner is available before the court for trial, the passport can be released to the petitioner. Appropriate and strict conditions may be imposed, submits the learned Public Prosecutor.

3. The learned counsel for the petitioner submits that any appropriate condition may be imposed. But the passport may be directed to be released to the petitioner.

4. Considering all the relevant inputs, I am satisfied that directions can be issued to release the passport to the petitioner subject to appropriate terms and conditions.

5. In the result, this petition is allowed. The passport of the petitioner shall be released on the following terms and conditions:-

(i) The petitioner shall execute a fresh bond for Rs.1,00,000/-(Rupees one lakh only) with two solvent sureties each for the like sum undertaking to produce the passport back before the court below and also to appear before the court as and when directed by the learned Magistrate.

(ii) The petitioner shall furnish to the investigating officer the address of his place of residence outside India when he is

abroad.

(iii) The petitioner shall specify the name of his counsel or any other person to whom intimation directing his presence should be given. Within 30 days of service of such intimation, petitioner shall appear before the court concerned.

**(R.BASANT, JUDGE)**

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